



January 21, 2000

Mr. Charles D. Olson
Haley & Davis
510 North Valley Mills Drive, Suite 600
Waco, Texas 76710

OR2000-0202

Dear Mr Olson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131338.

The Heart of Texas Workforce Development Board (the "Board") received a request for "a copy of the winning proposal for the RFP for Marketing Services (RFP # MS9/20/99)." You have submitted to this office a copy of the requested information, the winning proposal of Oldfield Davis, Inc. You inform us that Oldfield Davis marked the submitted proposal as proprietary and ask that we determine whether the Board may withhold the proposal from required public disclosure in order to protect the privacy or property interests of Oldfield Davis.

The responsibility for notifying a third party whose proprietary rights may be implicated by a release of requested information is now that of the governmental body who received the request for information. Gov't Code § 552.305(d). Section 552.305(d) requires the governmental body to make a good faith effort to notify a third party whose proprietary information is the subject of a request. The attorney general has prescribed the form of the notice required by section 552.305(d).¹ That notice requires a third party so notified to submit to the attorney general within ten days of receipt of the notice reasons why the information should be withheld from disclosure.

As we have received no arguments that the requested information is excepted from disclosure, we must conclude that the Board may not withhold the information from public disclosure. *See, e.g.,* Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990), 542 at 3 (1990); *see also* Gov't Code § 552.110.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

¹The notice statement may be found on our web site, www.oag.state.tx.us.

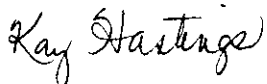
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/jc

Ref: ID# 131338

Encl. Submitted documents

cc: Ms. Dee Dieterich Shields
Fletcher Communications
P.O. Box 21930
Waco, Texas 76702-1930
(w/o enclosures)

Oldfield Davis, Inc.
211 North Record Street, Suite 500, LB 11
Dallas, Texas 75202
(w/o enclosures)